S.B. CIVIL WRIT PETITION NO.1029/2007
Jamna Bai
Vs.
State of Rajasthan & Ors.

DATE OF ORDER : 24.5.2007

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

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Shri Shailesh Prakash Sharma for the petitioner.

Heard learned counsel for the petitioner.

The petitioner who is elected Sarpanch of Gram Panchayat, Dolya Panchayat Samiti Ladpura, district Kota, has challenged the No-confidence motion passed against him primarily on two grounds. The first ground is that action had been initiated for declaring three of the panchs as disqualified, and therefore, they could not be allowed to participate in the meeting which was

convened on 22.2.2007. There does not appear any substance in this argument, for proviso to sub-section (2) of Section 39 of the Rajasthan Panchayati Raj Act 1994 provides that until a declaration under sub-section (2) is made, the member shall continue to hold the office. Another ground is that notice of the motion was served by the Development Officer through an official of the Gram Panchayat whereas such notice was required to be sent through the post office under certificate of posting or in the absence of post office, the same was required to be served through Tehsildar. In the present case, it was argued, that the service was affected by the Development Officer, Panchayat Samiti, Ladpura.

A bare perusal of Rule 21(2) of the Rajasthan Panchayati Raj Rules, 1996 shows that notice of meeting shall be sent by the Chief Executive Officer/Development Commissioner by post under certificate of posting not les than 15 clear days before the date of meeting and the date and time appointed therefor in the prescribed form to every directly elected Panch/Member at his ordinary place of residence. Copy of such notice shall also be put on the notice board of such Panchayati Raj Institution. Proviso to Rule 21(2) provides that in case of a place where there is not post office, or where service of the notice cannot be affected expeditiously, such notice shall be served through the Tehsildar concerned. In the present case, if the Tehsildar has not served the notice on

the Panch and if the Tehsildar has requested the Development Officer through whom the notice was to be sent, it cannot be said to have caused any prejudice particularly when notices were served and the members participated in the meeting. Now, when the motion of No-confidence has been carried out, I do not find any reason to interfere in the matter on the aforesaid grounds.

In the result, the writ petition is dismissed.

(MOHAMMAD RAFIQ),J.

Skant/-